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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
GARY JAMES ROLLER, )  
 )  
Defendant. )  
 )  
 )  
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 )  
 )

No. CR 08-00361(A) RMW

**STIPULATION AND ☐ ORDER CONTINUING STATUS  
CONFERENCE FROM MARCH 15,  
2010 TO APRIL 5, 2010, AND  
EXCLUDING TIME FROM MARCH 15,  
2010 TO APRIL 5, 2010, FROM  
CALCULATIONS UNDER THE  
SPEEDY TRIAL ACT (18 U.S.C. § 3161)**

The parties hereby request that the Court enter this order continuing the status conference from March 15, 2010 to April 5, 2010, and excluding time from March 15, 2010 to April 5, 2010. The parties, including the defendant, stipulate as follows:

1. The defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from March 15, 2010 to April 5, 2010 based upon the need for the defense counsel to investigate further the facts of the present case and determine what, if any, additional motions are appropriate. The government has produced discovery in this case and the defense counsel and defendant require additional time to review

1 and analyze this discovery. Specifically, defense counsel and defendant have requested an  
2 additional opportunity to review the images that are at issue in this case.

3 In addition, defense counsel will be representing the defendant in a four-week child abuse  
4 and molestation trial in state court beginning the week of March 1, 2010. Because of this trial,  
5 defense counsel will be unable to attend the scheduled March 15, 2010 status conference.

6 Therefore, for effective preparation and continuity of counsel and consideration of  
7 defendants' motions by the Court, the parties agree that the status conference currently scheduled  
8 for March 15, 2010 should be continued to April 5, 2010 at 9 a.m.

9 2. The attorney for defendant joins in the request to exclude time under the Speedy Trial  
10 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for  
11 effective preparation of the defense; believes the exclusion is in the defendant's best interests;  
12 and further agrees that the exclusion under the Speedy Trial Act, 18 U.S.C. § 3161, should be for  
13 the period March 15, 2010 to April 5, 2010.

14 Given these circumstances, the parties believe, and request that the Court find, that the  
15 ends of justice are served by excluding from calculations the period from March 15, 2010 to  
16 April 5, 2010 outweigh the best interests of the public and the defendant in a speedy trial under  
17 the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).

18 IT IS SO STIPULATED.

19 DATED: 2/25/10

/s/ Richard Pointer  
RICHARD POINTER  
Attorney for Defendant

22 DATED: 2/25/10

/s/ Hanley Chew  
HANLEY CHEW  
Assistant United States Attorney  
Attorney for Plaintiff

24 **[] ORDER**

25 Having considered the stipulation of the parties, the Court finds that: (1) the defendant  
26 understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18  
27 U.S.C. § 3161, March 15, 2010 to April 5, 2010, based on the need for the defense counsel to  
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1 investigate further the facts of the present case, review the discovery that the government has  
2 already provided and evaluate further possible defenses and motions available to the defendant;  
3 (2) the exclusion of time is necessary for effective preparation of the defense and continuity of  
4 counsel and is in the defendant's best interests; (3) defendant's motion to suppress and his  
5 supplemental motion to suppress the search warrant are still pending and under consideration by  
6 the Court and (4) the ends of justice are served by excluding from Speedy Trial calculations the  
7 period from March 15, 2010 to April 5, 2010.

8 Accordingly, the Court further orders that (1) the status conference currently scheduled  
9 for March 15, 2010 is vacated and that the next appearance date before this Court is scheduled  
10 for April 5, 2010 at 9:00 a.m.; and (2) the time from March 15, 2010 to April 5, 2010 is  
11 excluded from time calculations under the Speedy Trial Act, 18 U.S.C. § 3161.

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13 IT IS SO ORDERED.

14 DATED: 3/12/10  
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16 THE HONORABLE RONALD M. WHYTE  
17 United States District Court Judge  
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